IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)
THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO : 12248 of 2004

Between:

Nannapaneni Dharma Rao, S/o Late Koteshwara Rao,
R/o.Chandarlapadu Village and Mandal, Krishna District.

..... PETITIONER

AND

1. The State of Andhra Pradesh, rep. by its Secretary,

Panchayat Raj Rural Development Department,

Secretariat Buildings, Hyderabad.
2. The District Collector, Krishna District at Machilipatnam.
3. The District Panchayat Officer, Krishna District at

Machilipatnam.
4. The Chairman, District Level Committee of Sand Auction,
   Zilla Parishad, Krishna District at Machilipatnam.
5. Nallani Srinivasa Rao, S/o. Narasimha Rao,
   R/o Muppalla, Chandarlapadu Mandal, Krishna District.

(R5 is impleaded as per Court Order dt. 6-12-2004 in

WPMP 27945 of 2004.)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of respondents in deciding to auction Sand Quarry at the Kasarabada, Pokkunuru and Vibarintalapadu Villages, Chandarlapadu Mandal, Krishna District, Andhra Pradesh vide Notification No. 3909/2004.7 dated 26-6-2004 as illegal, unconstitutional and contrary to A.P. Minor Mineral Concessions Rules, 1966, A.P. Water Land and Trees Act, 2002 etc., and consequently set aside the Notification dated 26.6.2004 in respect of Kasarabada, Pokkunuru and Vibarintalapadu Villages, Chandarlapadu Mandal, Krishna District, Andhra Pradesh and direct the respondents not to auction Sand Quarries at the three villages and direct the respondents to stop any sand quarrying forthwith if necessary by cancelling/suspending any lease if entered with third parties or any person and not permit any sand quarrying in future in the above villages.

Counsel for the Petitioner: MR.D.RAMESH

Counsel for the Respondent Nos.1 to 4: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.5: SMT. N.INDRANI.

The Court made the following:

O R D E R :

This writ petition is filed to declare that the action of the respondents No.1 to 4 in auctioning the sand quarry at Kasarabada, Pokkunuru and Vibarintalapadu villages of Chandarlapadu Mandal of Krishna District is contrary to Andhra Pradesh Minor Minerals Concessions Rules, 1966 and Andhra Pradesh Water, Land and Trees Act, 2002 (for short 'the Act') and consequently set aside the Notification dated 26-06-2004 issued by the respondents No.1 to 4 for quarrying of sand in those villages.

2. By the Notification dated 26.06.2004, the Joint Collector, Krishna District, issued notification calling tenders for quarrying the sand in R.S.No.249 of Pokkunuru village, R.S.No.291 of Vibarintalapadu village and R.S.No.1 of Kasarabada village of Chandarlapadu Mandal and other places in the Krishna District. In pursuance of the said notification, fifth respondent, who came on record subsequently, seems to have been figured as highest bidder. As stated earlier, this petition is filed to quash the proceedings in issuing the notification on the ground that it is harmful to the environment.

3. The main contention of the learned Counsel for the petitioner is that since quarrying of sand in Pokkunuru, Kasarabada and Vibarintalapadu villages of Chandarlapadu Mandal, Krishna District, would cause harm to the water projects in those areas, quarrying of sand in the said villages should not be permitted. He took me through "interim verdict of Jury panel on sand mining", headed by Justice Krishna Iyar and contended that since sand mining in the said villages would be injurious to the water projects there, sand quarrying cannot be permitted in those villages. The contention of the learned Government Pleader is that the notification impugned in this petition was issued only after an investigation of the water bodies

was carried out in the notified area and after taking into consideration the re-categorisation of Mandals in Krishna District as on May, 2003, as per the provisions of the Act and the Rules made thereunder (the Rules). The contention of the learned Counsel for fifth respondent is that the petitioner, who is not a resident of the villages in question and who has no property or interest whatsoever in those villages filed this writ petition at the behest of the opponents of the fifth respondent with a view to cause wrongful loss to the fifty respondent and that opponents of the fifth respondent, in fact, are shadow fighting with the fifth respondent in the name of the petitioner.

4. From the report of the Assistant Hydrogeologists, produced by the learned Government Pleader along with the counter-affidavit of the third respondent, it is seen that as
per the resolution of the District Level Sand Committee of Krishna District and at the instance of the District Panchayat
Officer, Machilipatnam, detailed ground water investigations were carried on by two Assistant Hydrogeologists on 13.02.2004 to study the impact on ground water regime and the feasibility of sand reaches for mining in Krishna Riverbed at Kasarabada, Pokkunuru, Vibarintalapadu villages of Chandarlapadu Mandal, and that the areas in R.S.No.1 of Kasarabada village, R.S.No.291 of Vibarintalapadu village and R.S.No.249 of Pokkunuru village are crystallines of Archean age and that no ground water structures are existing around the proposed sand reach areas within 500 metres distance, and that there is no surface water utilization scheme at Vibarintalapadu village, and that a lift irrigation scheme is under construction at Pokkunuru village and that the areas proposed are feasible for quarrying sand and that norms fixed by the Act and River Conservation Act are satisfied.

5. The learned Counsel for the petitioner by producing photographs showing the

location of lift irrigation scheme in Vibarintalapadu and Kasarabada villages, contends that quarrying of sand in Vibarintalapadu and Kasarabada villages would effect the lift irrigation in those villages and so quarrying sand in those villages would be contrary to the provision of the Acts and the Rules. Here, I have to state that the Interim Verdict of the Jury Panel on 'Sand Mining' and other papers relied on by the learned counsel is of no help in deciding this petition, because it relates sand mining of Tamil Nadu and Kerala State. In this State sand mining is governed by the Act and the Rules made thereunder and A.P. Minor Mineral Consumption Rules, 1966.

6. As per Rule 23(4) of the Rules permission to quarry sand shall not be granted within 500 metres of any ground water extraction structure(s) either for irrigation or drinking water purposes. It does not speak anything about surface water. The photographs produced and relied on by the learned Counsel for the petitioner do not relate to ground water extraction, and relate to lift irrigation from surface water but not from ground water. Since Rule 23 (4) of the Rules does not prohibit quarrying sand near lift irrigation, it cannot be said that the notification in question is issued contrary to the Rules.

7. As per Section 27 of the Act, the Authority under the Act can frame guidelines for sand mining from water bodies, where such sand mining is environmentally harmful both in private and Government lands and sand mining shall not be permitted over exploited basins, as declared by the Authority under Section 11 (1) of the Act. As stated earlier, in Krishna District re-categorization of Mandals was done in May, 2003, and only after a survey was conducted by the Assistant Hydrogeologists, proposal for putting the sand reaches for auction in the three villages in question and other villages was made and was advertised. Since the reports of the Assistant

Hydrogeologists filed along with the counter affidavit of third respondent clearly show that there are no ground water structures within 500 metres distance from the areas notified, and since prohibition contained in Rule 23 of the Rules is only with regard to the permitting sand quarrying within 500 metres from ground water extracting structures, I am unable to agree with the contention of the learned Counsel for the petitioner that permission to quarry sand in the three villages in question, would be harmful to the villagers and so, I find no grounds to quash the impugned notification.

8. Hence, the writ petition is dismissed. No costs.

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(C.Y.SOMAYAJULU, J)

Dated: 10th February, 2005.

NOTE:

Issue C.C. in one week.

B/O

YCR/CS

To

1. The Secretary, State of Andhra Pradesh,

Panchayat Raj Rural Development Department,

Secretariat Buildings, Hyderabad.
2. The District Collector, Krishna District at Machilipatnam.
3. The District Panchayat Officer, Krishna District at

Machilipatnam.
4. The Chairman, District Level Committee of Sand Auction,
   Zilla Parishad, Krishna District at Machilipatnam.
5. Two C.Cs. to the Government Pleader for Panchayat Raj and Rural Development, High Court Buildings, Hyderabad (OUT)

6. Two C.D. copies.